



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/688,483 | 10/17/2003 | Fabrice Billarant | CAC.P0033 | 2195 |

7590 10/20/2005

Edward G. Greive
Renner, Kenner, Greive, Bobak, Taylor & Weber
Fourth Floor
First National Tower
Akron, OH 44308-1456

EXAMINER

RODRIGUEZ, RUTH C

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3677

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 10/688,483 | Applicant(s) BILLARANT, FABRICE | |
| | Examiner Ruth C. Rodriguez | Art Unit 3677 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 12-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10172003</u> . | 6) <input type="checkbox"/> Other: _____ |

KL

CR

DETAILED ACTION

Election/Restrictions

1. Claims 9-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention II, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 2005.
2. Applicant's election of Invention I in the reply filed on July 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

4. The information disclosure statement filed 13 October 2003 has been considered for this Office Action.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 7, 8 and 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cripps et al. (US 5,061,540).

An article (12) over which a molding is to be made. The article comprises a base (10) having a top surface and a bottom surface. Hooks (16) are extending from the bottom surface of the base and metallic material (24) is fixed on the top surface of the base. The hooks are disposed in a region in the form of a longitudinal strip (Figs. 3 and 6). The base is flat in shape (Figs. 1 and 7). The flat base is of a material such and a thickness such that it can undergo deformation to follow the shapes of the top edges of vertical walls on which the article for molding over is intended to be placed by its bottom surface (Figs. 2 and 4). Cripps fails to disclose that the hook strip has a width being less than 10 mm, preferably between 3 and 10 mm. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the hook strip with a width of less than 10 mm, preferably between 3 and 10 mm since such a modification would have involved a mere change in the size of a

component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

The hooks are made in the form of longitudinal rows (Figs. 1-7). The number of rows preferably is less than or equal to three (Fig. 3). Cripps fails to disclose that the hooks have a Christmas tree shape. However, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have the hooks with a Christmas tree shape since the Examiner takes Official Notice that the use of hooks having a Christmas tree shape is well known in the cushion art since the Christmas tree shape will provide a better engagement by having additional prongs.

The longitudinal strip comprises hooks stops at a distance from the longitudinal ends of the base (Figs. 1-7). The longitudinal end regions thus are formed without any hooks particularly over a distance of some millimeters to enable the base to be placed at the level of its longitudinal ends directly on the top edges of the walls forming the cavity (Figs. 2 and 4). Once again, Cripps fails to disclose that distance is preferably less 15 mm. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the distance being preferably less than 15 mm since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Cripps fails to disclose that the base is of polyamide 6 and has a thickness of between 0.2 mm and 0.4 mm or the base has a thickness of 0.15 mm to 0.35 mm and is of polyamide 6-6. However, it would have been obvious to one having ordinary skill in

Art Unit: 3677

the art at the time of Applicant's invention to have the base made of polyamide 6 or polyamide 6-6 since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Also, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the base with a thickness of between 0.2 mm and 0.4 mm when polyamide 6 is used or a thickness of 0.15 mm to 0.35 mm when polyamide 6-6 is used since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

A moulded object of foam to which one or more articles for moulding over are fixed by hardening of the foam on the top surface of the base after the foam has been poured in a mould (C. 1, L. 8-20).

88
10/17/05
Crapps discloses a mould in the base of which there is made a cavity having walls projecting from the base and on the top edges of which there is intended to be placed an article for molding over (C. 1, L. 8-20 and Figs. 2 and 4). The article is intended to be fixed to a molding object by solidification of a foam that is poured there over (C. 1, L. 8-20). The cavity has two side walls preferably parallel and spaced apart by a distance. Crapps fails to disclose that the distance is between 4.5 mm and 12 mm. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the distance being between 4.5 and 12 mm since such a modification would have involved a mere change in the size of a component. A

change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Regarding claim 12, the rejection of claim 1 serves to reject claim 12 that has the same limitations as claim 1 with the exception of reciting that the base or element is flat.

The element is flat in shape (Figs. 1-7).

The magnetically attractable material is fixed on the top surface of the element (Figs. 1-7).

7. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cripps et al in view of Fleuchaus et al. (US 6,842,950 B2).

Cripps discloses an article having all the limitations mentioned above I paragraph 3 for the rejection of claim 1. Cripps discloses that the metallic material is a magnetic plate. Cripps fails to disclose that the metallic material is embodied in the form of a metallic resin rib fixed by gluing to the top surface of the base particularly by forming two longitudinal reinforcements on either side of the resin-base interface to provide good anchoring of the foam where anchoring patterns can also be provided at the outer surface of the metallic resin rib. However, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have the metallic material being embodied in the form of a metallic resin rib fixed by gluing to the top surface of the base particularly by forming two longitudinal reinforcements on either side of the resin-base interface to provide good anchoring of the foam where anchoring patterns can also be provided at the outer surface of the metallic resin rib since the Examiner the

Examiner takes Official Notice that the use of a metallic resin rib for centering the article is well known in the art as taught by Fleuchaus.

Cripps also fails to disclose that the resin rib comprises at least 6 g per linear meter of metallic powder for a total weight of metallic resin of at least 10 g per linear meter. However, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have the resin rib comprising at least 6 g per linear meter of metallic powder for a total weight of metallic resin of at least 10 g per linear meter since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cripps et al. (US 5,061,540), Fujisawa et al. (US 6,439,537 B1), Murasaki (US 6,463,635 B2), Billarant et al. (US 6,596,371), Fujisawa et al. (US 6,720,059 B2) and Fleuchaus et al. (US 6,842,950 B2) are cited to show state of the art with respect to articles having hooks and being used in combination with a mold to mold a cushion.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase the patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as PTO's mailroom processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP § 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee that the applicant is paying by check **should not be** submitted by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP § 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to
the Patent and Trademark Office (Fax No. (571) 273-8300) on (Date) .

(Typed or printed name of person signing this certificate)

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP § 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response has been transmitted by facsimile will cause further unnecessary delays in the processing of your application, duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

RCR
rcr

October 17, 2005


JJ Swann
Supervisory Patent Examiner
Technology Center 3600